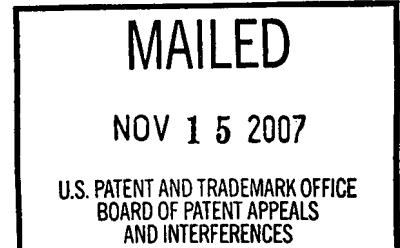


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte: HUGH L. BRUNK,
BRETT ALAN BRADLEY, and BRETT T. HANNIGAN

Application 10/045,654



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on October 15, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

The Examiner's Answer filed on August 2, 2006, reveals that the

following appropriate heading is missing. Correction is required.

MPEP § 1207.02.

A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER.

The examiner's answer is required to include, under appropriate headings, . . . the following item:

Real Party in Interest. A statement acknowledging that the brief has identified by name the real party in interest.

GROUNDS OF REJECTION

The Reply Brief filed on September 27, 2006 states:

An Amendment Accompanying Appeal Brief was concurrently filed with our Appeal Brief on May, 15, 2006. Entry of this amendment was believed proper since it merely canceled claims 10 and 24. But the Examiner's Answer on page 2, paragraph 4, states: "No amendment after final has been filed." We surmise that the Examiner did not consider[ed] the Amendment Accompanying Appeal Brief since claim 24 is referenced on page 5, line 5, of the Examiner's Answer and claim 10 seems included with allowed claims

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on page 6, line 2 of paragraph 10. We respectfully request clarification as to whether the Amendment Accompanying Appeal Brief was entered. (Reply Br. 3.)

In the Grounds of Rejection section of the Examiner's Answer, claim 24 is addressed as being rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,330,672 to Shur. Also, as noted above claim 10 is included in the allowed claims in the Response to Argument section. Therefore, it is unclear whether the Examiner considered the amendment cancelling claims 10 and 24.

Proper correction of the Examiner's Answer is required.

Accordingly, it is ORDERED that the application is return to the Examiner:

- 1) vacate the Examiner's Answer mailed August 2, 2006 and
revise Examiner's Answer having the appropriate headings; and

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- 2) acknowledge and determine the status of claims 10 and 24 in the grounds of rejection and response to argument sections; and
- 3) issue a revised Examiner's Answer in accordance MPEP § 1207.02; and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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